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ABSTRACT

The "Fairness Doctrine" of the Federal Communications Commission (FCC) requires that broadcasters allow ample time for presentation of differing opinions on controversial issues. The Office of Communication of the United Church of Christ acted as a consultant to citizen groups (when requested to do so) in more than 30 communities who believed a local station was not living up to the Fairness Doctrine. This report summarizes action over a two-year period against stations dominated by right-wing broadcasts. The project achieved results in three fields: education about the rights of citizens to determine broadcast content, community organization and action towards this end, and legal defense of the Fairness Doctrine. Greater stringency by the FCC in renewing broadcast licenses is recommended. (JK)

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in defense of fairness

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A report of a program to defend the public interest in broadcasting by combatting the practices of some radio and television stations that air extremist viewpoints on controversial issues of public importance, without counterbalancing them with other prevailing views.

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by the

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This report summarizes a two and one-half year project of the Office of Communication of the United Church of Christ to foster balanced programming in the treatment of controversial issues by radio and television stations.

Balance is sought, not the projection of one view over another.

The Office of Communication eschews direct action in these projects. Instead, the work has been conducted through citizen groups voluntarily organized on a local basis. These groups have been concerned over violations by their local broadcasting stations of the Fairness Doctrine, promulgated by the Federal Communications Commission, and over the preponderance of extremist opinions when public issues are discussed on these stations.

The project was made possible by generous grants from the Field Foundation and the American Federation of Labor-Congress of Industrial Organizations. This report covers the period from January 2, 1967 to April 18, 1969.

Introduction

For thirty years, forward looking churchmen have been concerned about the ethical aspects of mass communication. As early as 1938 the department of research and education of the Federal Council of Churches made an assessment of the influence of radio in American life and an analysis of the public policy needed for directing broadcasting. The Council opposed censorship of individual programs. At the same time, it spoke out for evaluation by the Federal Communications Commission of a station's over-all program service when the station license came up for renewal.

The Council also advanced the novel idea that the community should participate in licensing procedures:

> The community itself should have ways of seeing that the broadcasting privilege is exercised by agencies that have the greatest proved capacity and willingness to serve the public 'interest, convenience, and necessity.'

In 1960 the National Council of the Churches of Christ in the U.S.A., successor of the Federal Council, studied television and radio and found their programming to be "symptomatic of a moral disease in our society." It charged that "the churches themselves share in the responsibility" for this disease. They may not limit themselves "to the expression of concern over specific mass media programs that are harmful," but must "take positive steps to help like-minded persons and groups to be wise stewards for the public good of these instruments which God has made available."

Important church bodies have opposed giving of special privilege to the few and have championed freedom of access to broadcasting facilities for all segments of the public. The Joint Religious Radio Committee (with Congregational Christian, Evangelical and Reformed, Methodist, and Presbyterian U.S.A. Churches in membership) took a position unpopular with some churchmen when it supported the controversial Federal Communications Commission Scott Decision of 1948, which granted atheists access to the air. Every minority group – including atheists – should be permitted to speak, the Committee said.

In the same year the Committee, in testimony before the FCC, opposed monopoly control by the broadcaster over the dissemination of ideas: "...the licensee [is] wholly unjustified in using a medium of publication for the furtherance of his private views." The use of a broadcast frequency for private gain can be justified, the Committee said, only by the licensee "maintaining through his broadcasting facilities a medium for the unrestricted interchange of information and viewpoints about his community."

The United Church of Christ has shared this long-standing concern of the churches that broadcasting should serve the public interest. In a policy statement issued on the eve of the formation of the United Church in 1957, the denomination's Office of Communitions asked: "What is the pertinence of the Christian Gospel for both the producer and the consumer of television and radio?" Answering its own question it said, "Certainly the principals of Christian ethics apply in this field as elsewhere. Perhaps our most important task is not that of being broadcasters ourselves, but of awakening the consciences of the men who control the broadcasting facilities and of the public to the appalling results that can come from the misuse of television and radio."

The WLBT Case and Its Significance

In pursuit of this policy, the Office of Communication in 1963 began to look into how television and radio stations in the South treated Negroes. A petition was filed with the FCC to deny renewal of the license of Station WLBT-TV, Jackson, Miss., on the ground that the station discriminates against the interests of the black community, which constitutes 45 per cent of its viewers. The FCC, using the evidence adduced by the Office of Communication, put the station on probation for a year but refused to hold a hearing to judge its conduct. The Commission also refused standing to the Office of Communication, holding that public bodies had no right to a voice in its proceedings and judgments. These decisions of the FCC were appealed to the United States Circuit Court of Appeals. In a landmark decision, the Court reversed the FCC on all counts. The decision, written by Judge Warren Burger, now Chief Justice of the United States, not only ordered the FCC to hold a hearing on WLBT in which the Office of Communication would have standing but went much further and ruled that the public has a right to be heard in all license renewal proceedings of the FCC. "[E]xperience demonstrates consumers are generally among the best vindicators of the public interest. In order to safeguard the public interest in broadcasting, therefore, we hold that some 'audience participation' must be allowed in license renewal proceedings," the Court said. Thus an important legal weapon was forged to protect the public welfare.

The Communications Act of 1934 has as one of its principal provisions the directive that broadcast licensees must, first and foremost, conduct their operations in "the public interest, convenience, or necessity." The Federal Communications Commission was created by Congress to enforce the Act, including this key provision. For more than a quarter of a century the FCC has been handing down statements of principle governing program service in the public interest. It has engaged in specific rule making to govern station practices in such things as fairness in the treatment of controversial issues of public importance. (The Fairness Doctrine is one such rule.) But in the whole lifetime of the FCC, neither statement nor rule has brought forth a penalty from the Commission for violation of the "public interest" provisions of the Act.

While failing to act on its own initiative, the FCC has denied the public the right to be heard and to have its views made a part of the record in license renewal proceedings. (This is the issue of standing.) The FCC has no organization for investigating complaints of misconduct made against stations or for checking on the programming practices of its licensees. When members of the public protest, the most the Commission will do is to send the complaint letter to the station with a request for an explanation. There the matter rests. If the public is to be protected against the practices of the minority of broadcasters who willfully flout the public interest, the public must protect itself. Public bodies must gather evidence of station misconduct; then they must find the means to

compel the FCC to enforce its own rules and standards. Hence the importance of the Court decision in the WLBT case. Public groups may now file formal, legal charges with the FCC against stations. Since the public now has standing, the FCC can no longer ignore such legal actions, but must respond to them by requiring the station to make a legal defense against the charges and then adjudicating the dispute.

Pleas for Help

The public attention accorded the WLBT case prompted individuals and groups in scores of communities to telephone or write to the Office of Communication for help to counter station practices that they considered to be unfair. They complained about attacks on respected persons and institutions which regularly emanated from the admittedly conservative syndicated political and social "commentaries," such as "The Dan Smoot Report" and the self-styled religious spokesmen such as Billy James Hargis, Edgar Bundy, and Carl McIntire, whose Protestant fundamentalism is inextricably mixed with right-wing political philosophy.* These outraged citizens reported the excesses of the call-in programs which often provide the means for dedicated right-wing "regulars" to launch personal attacks on individuals, usually community leaders, and on the fundamental institutions of American life: the churches, public schools, foundations, unions, political parties, governmental agencies, the President, the Congress, and the Supreme Court. Clergymen, school officials, Jews, Negroes, and the United Nations are favorite targets for vilification or ridicule from right-wing callers.

Correspondents claimed that the victims of such attacks were seldom given time to reply, as required by the FCC Fairness Doctrine; nor did the offending stations fulfill the further FCC Fairness requirement that persons be warned in advance of an attack that is about to be made on them. And in the rare instances where reply time was provided, the hapless victim ran the risk of being the target of a new attack in the extremist broadcaster's next program.

A majority of the correspondents admitted they had no clear understanding of what their rights were with respect to broadcast service. Many had sought redress of their wrongs through the FCC, only to be rebuffed by form letters disclaiming responsibility for programming and citing the provision of the Communications Act that forbids censorship by the FCC. They pleaded for a public advocate to press for their rights against the open hostility of right-wing extremists and the combined indifference of the broadcast licensees and the FCC to the rights of citizens that are mandated by the Communications Act.

The Policy of the Office of Communication

The Office of Communication has adhered to the policy that the requirements of the Communications Act calling for periodic review of the activities of broadcast licensees are both necessary and just. On the other hand, the Office of Communication is alert to the danger inherent in such powers of review, i.e., that a corrupt ruling party might use them to suppress the freedom of speech that is guaranteed in the First Amendment. Therefore, the Office of Communication opposes censorship in any form and from any source, be that source a segment of the population, an advertiser, a network, a broadcast

* *The FCC hearing examiner who investigated the operation of WXUR, Media Pennsylvania was unable to separate fundamentalist religion from conservative politics in the preachment of Dr. McIntire, syndicator of the "20th Century Reformation Hour." He stated in his report: "Even Dr. McIntire tied the two together so that they became inseparable and the Hearing Examiner professes no competence to determine where one stopped and the other began." 14 Pike and Fischer R.R. 2d 1051 (1968), at 1056.*

licensee, or an agency of government. It will not engage in any activity that denies freedom of speech to even the most rabid extremist of the right or the left.

Since television and radio are now the prime sources of news, information, and opinion, three things are essential: (1) that broadcast licensees provide ample time on the air for the presentation of differing opinions on controversial issues; (2) that when individuals or groups are subjected to attack in the course of the discussion of a controversial issue, they immediately be granted adequate time for reply; (3) that the First Amendment rights of the public to freedom of speech shall be protected by guaranteeing that members of the public shall, without hindrance by the broadcast licensees, have access to the broadcast media for the presentation of their views. This point of view requires that the broadcast licensee, in fulfilling his obligation to broadcast in "the public interest, convenience, or necessity," shall present balanced programming on issues of public importance and shall program to satisfy the tastes, needs, and desires of the ethnic and interest groups in his audience.

In pursuit of this objective of fairness and balance, the Office of Communication is prepared to assist citizen groups concerned about stations in their communities that permit the endless repetition of only one point of view. Its function in helping to insure fair play and understanding among advocates in the harsh confrontation of opposing ideologies fulfills the imperative role of the Church as conciliator. The Office of Communication is not unmindful of the fact that Black America, faced with the need to present its views and its demands by means of mass communication has time and again been forced to challenge our way of life with deadly force in the streets in order to attract the attention of the mass media. The Church is being true to its calling when it labors to open the mass media to all, in fairness, so reason may prevail over force.

On this basis, the Office of Communication has acted as consultant to broadly based citizen groups in more than 30 communities, all of whom were troubled over the service being rendered by one or more of the local broadcasting stations. In some instances the relationship has gone no further than instruction about the rights and responsibilities of citizens to evaluate broadcasting service and the obligations of the broadcasting station, under the Communications Act, to the community it serves. In other cases formal observations of stations have been initiated under the instruction of Office of Communication staff and have resulted in consultations between the citizen groups and station managements. In two instances the observing has led to the filing of formal petitions with the FCC calling for denial of license renewal.

All of the activities of the Office of Communitions have resulted from requests from responsible community organizations, usually churches or other voluntary institutions, for help. In no case has the Office of Communication approached a community and suggested that some form of action be initiated with respect to broadcasting service. In those instances where help has been requested but it has become apparent that no broadly based citizen group is vitally concerned about the quality of the broadcasting service, the Office of Communication has advised against action by small groups with special interest orientation and has declined such requests for aid.

How The Project Functioned

Principles Adopted

One important accomplishment of this project has been the development of sound principles and viable methods for community action to promote good broadcasting. The approach was largely pragmatic. The means by which citizen

groups could best implement the desired end of fairness in broadcasting evolved from the experience of working in the localities being assisted. For example, it was necessary to discover what knowledge of the American broadcasting system, if any, the people possessed. In fairness to local broadcasters, it was essential to know whether or not protesting citizens were familiar with the whole broadcasting schedule of a station they opposed and could articulate their objections to specific programming within that framework.

Some essential knowledge and experience could be acquired only in the process of dealing with issues in specific communities. How much could people be expected to learn during the time they had available and how much was it necessary for them to know? How much systematic observing of a station's activities was required to determine whether or not it was properly serving the community? What was the best method for gathering and evaluating data? How could citizen groups research the open but complicated station files at the FCC and convey meaningful findings to the people of their communities? What were the best ways to bring public complaints and petitions for denial of renewal of licenses before the FCC? How could the FCC be made to enforce its own rulings? Finally, how much staff time was needed and how could it be deployed most efficiently to organize effective community action?

It was necessary to establish specific criteria for affording assistance. As stated previously, no activities were undertaken without a request for help from residents of a community. If such individuals were not broadly representative of the community as a whole, they were advised to make additional contacts and to bring others into the group. Aid from the Office of Communication was contingent upon the satisfaction of this requirement. It was explained that a radio or television station is responsible to the community it serves. Therefore, the initiative for any action with regard to a station must come from a substantial segment of the community itself. Furthermore, persons who set themselves to evaluate station performance must have a comprehensive understanding of American broadcasting and of the scope and limitations of the public responsibilities of broadcast licensees.

When a representative and informed citizen's group was established, a period of formal observation of the allegedly offending station's programming was undertaken. Materials such as instructions for observing and report forms were supplied by the Office of Communication. Tape recorders were made available for transcribing programs for group evaluation.

The citizen group was then asked to analyze its findings and to produce a written statement of particulars about practices which it felt the station needed to correct.

If the citizen group decided to pursue its findings, the next step was to approach station management to discuss the situation and to seek a solution to the issues that troubled the committee. The chief objective of the project was to foster change by means of consultation between community leaders and station personnel. Only if this method of friendly consultation failed was consideration given to the filing of charges with the FCC.

Where litigation has seemed appropriate both to the Office of Communication and to the citizen group, assistance has been afforded in conducting a period of formal monitoring of a particular station's programming.* In two instances the data collected has been used in the

* *Monitoring is a formalized method of observing. Monitoring under Office of Communication auspices is conducted by observers trained to listen to all of a station's programming for one week, to categorize programs by type, and to describe accurately what is on the air. All programs are also tape recorded in the monitoring study. Observing may be intermittent and need not cover all programming of a station for a stated period, i.e., observers may limit themselves to listening to a call-in program or to locally produced programs. The forms and the tape recorded record are the same for observing and monitoring.*

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preparation of petitions to deny license renewal to stations. Although legal counsel was made available to the affected communities, the Office of Communication is not party to the complaints. The citizen groups are solely responsible for their petitions.

Whatever action has resulted with individual stations, each citizen group has been encouraged to undertake an ongoing function, beyond the solution of its initial problem. The project has shown that these groupings of community leaders can perform a valuable service in assisting stations to assess and serve community tastes, needs, and desires. They also constitute informal standing committees which understand the proper function of broadcast media and can move to eliminate future abuses of the public interest.

None of the standards developed in the project is rigid. Each may be adapted to the conditions found in a particular community. Importantly, at each stage of development, both the Office of Communication and the citizen group has had the option of terminating activities.

Choice of Communities

More communities asked for assistance than it was possible to serve with available funds and personnel. Therefore, a decision was made to concentrate (a) on communities where there was an unusually large amount of extremist propaganda being aired, and (b) on communities in which there were discriminatory programs against blacks.

One of the first activities of the project was the commissioning of a survey to determine the pattern and scope of extremist broadcasting. The study turned up only one station that regularly aired left-wing views. The survey indicated that right-wing groups were spending large sums of money to dominate radio programming in the Intermountain states, Oregon, and Central and Southern California. It also found that in a larger number of communities right-wing extremists were monopolizing the call-in programs, especially in communities with only one station. They were, in effect, using these programs as private communication systems, passing messages back and forth, announcing meetings and other activities, and calling for action on various issues. It appeared that this activity was being carried on with the approval and cooperation of the station personnel, since this program need not be vulnerable to domination by callers of a particular viewpoint, if the "host" will insist that differing views be expressed.

On the basis of the survey, it was decided to concentrate attention on requests for help received from citizen groups in the West and in the South. In practice, counselling was also afforded to communities in the Middle West and the East.

Achievements of the Project

The project has achieved results in three fields: (1) education, (2) community organization and action, and (3) legal defense of the Fairness Doctrine.

Education

An important function of the project has been the development of methods and instruments to teach community leaders how the American broadcasting system operates, how stations are licensed and controlled, and what the rights and responsibilities of the private citizen are with respect to broadcasting. There were no ready models for this kind of teaching when the project started. For example, much of the literature which describes and discusses the American system of broadcasting was found to be either too scholarly or too technical for

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the average reader. Less sophisticated material tended to be written from an industry point of view. None was consumer oriented.

A basic document was needed to explain the American broadcasting system and the relation of the citizen to it. Therefore, a pamphlet, "How to Protect Citizen Rights in Television and Radio," was published. It explains why television and radio are important in the life of the country; describes the Communications Act of 1934 and the functions of the Federal Communications Commission; discusses the responsibility of the broadcaster; shows how the broadcasting system functions, and explains how individuals and citizen groups can make their wishes known with respect to broadcast service. "How to Protect Citizen Rights in Television and Radio" is distributed free. It has been the basic source for all citizen groups that have requested aid from the project. Beyond the project itself, the pamphlet has been used by 200 organizations in 33 states and Canada. FCC Commissioner Nicholas Johnson has publicized the pamphlet in several magazine articles. The American Civil Liberties Union has provided its local chapters with copies.

For the project to function, it was necessary to develop simple, reliable procedures by which private citizens could collect data on programming and report accurately on what stations were doing. There have been several instances in which television and radio stations have been monitored to determine their programming practices. But these monitoring studies have relied upon teams of observers who were trained for such work. The experience gained by the Office of Communication in monitoring the stations in Jackson, Mississippi, provided a background for experimentation with untrained, private citizens.

The first activity of the citizen groups was observing each station over a stated period of time, ranging from a minimum of two weeks to 60 days or more. Report forms were developed, together with simple instructions for their use. Forms and instructions have been revised from time to time as experience with the observers showed the need for change. One important technique has been to allow subjective comments on programming, made on separate forms, so objectivity will be maintained in the other areas of reporting. The programs that have been observed have also been tape recorded.

Another important service to the local communities was analysis and publication of data on the ownership and control of broadcasting stations. Even community leaders may not be aware of who owns and operates television and radio stations and newspapers. It is often difficult for private citizens to find out that several communication outlets in a community are controlled by the same interests, or that local media are controlled by outside ownership which may consist of large conglomerates with regional, national and international holdings. The project demonstrated that ownership is an important factor in determining the performance of a local station.

Another educational function was the introduction of community leaders to vital information about stations that is almost never placed in the hands of private citizens, even though it is a matter of public record. No citizen group was familiar with the license files of stations in which programming proposals are made to the FCC and the stations report upon how they have met their programming promises during the course of a three-year license period. Legally, the FCC is required to satisfy itself that the reporting represents an adequate fulfillment of the promise of service. In practice, the Commission makes no attempt to analyze program logs against program promises. Stations count upon having their records receive only cursory examination by the FCC. It has, therefore, been a shock to some stations when the citizen groups participating in the project made detailed analyses of performance against promises and

presented them to station management to show how stations had failed to live up to their commitments. The procurement of such information required a staff in Washington, D. C., for study of the FCC files on individual stations. Without such a staff working under the rigorous controls exercised by the project, it is virtually impossible for private citizens to have access to the data about stations, even though the public is legally entitled to see it.

Community Organization and Action

Community action in those places where project staff worked with citizen groups may be summarized as follows:

(1) Two petitions to deny renewal of licenses have been filed with the Federal Communications Commission. In both instances, license renewal has been delayed and the Commission is investigating the activities of the challenged stations.

(2) Some citizen groups have observed stations in their communities and have used their observations as a basis for consulting with the stations involved. Some have come to satisfactory agreements with the station management on program changes. Others have failed to reach agreement.

(3) In other communities, citizen groups organized, received instructions from project staff members on how to observe stations, and began the observation, but did not follow through to the point where they made contact with the stations that were allegedly not broadcasting in the public interest.

(4) Two communities are now in the process of conducting observations.

Petitions to Deny Renewal of Licenses

Paradise, California. Paradise is a non-incorporated retirement town. It has a single radio station KEWQ. The community has no newspaper.

Paradise has been plagued by controversy initiated by right-wing sympathizers. Public schools have been a prime target of attacks, many of them launched over KEWQ. Teachers have been accused of being Communists. A school superintendent resigned after enduring attacks from the station for many months on his handling of school funds and his administrative ability. Community organizations and leaders, labor unions, churches, and national and international governmental agencies have been subject to attack over the station. KEWQ has carried a number of fundamentalist religious programs, but none from standard denominations. It aired several right-wing opinion programs. A daily call-in program has favored callers who expressed a right-wing point of view.

In December, 1967, 20 community leaders from Paradise invited the Office of Communication to aid them in observing station KEWQ. This group was later expanded to more than 80 members, and organized as "The Paradise Citizens for Civic Responsibility." The group carried on a three-week preliminary observation of the station. They then proceeded to do detailed monitoring covering a period of several months and employing tape recording and monitors trained by the Office of Communication.

The group made its findings and its criticism known to the station management but received no response. Therefore, on November 27, 1968, the group filed a formal petition with the Federal Communications Commission

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asking that renewal of the license of KEWQ be denied. The petition alleged the following, among other things: (1) that the station has misled the FCC "by claiming to have consulted a group it never in fact consulted." (2) The station did not make fair presentation of matters effecting the Paradise community and its residents, and failed to fulfill its "affirmative obligation to implement the broadcast of all sides of controversial issues." (3) KEWQ frequently violated the Fairness Doctrine by refusing to afford time for reply to persons attacked on its call-in programs.

As a result of the petition, the FCC has held up renewal of the license of KEWQ.

Pending hearing on the petition, the station has moved swiftly to correct the abuses alleged. First, and probably most importantly, William Ledbetter, manager and part owner of the station was bought out by the other owners and dismissed as manager. Much of the community's dissatisfaction with the station was because of Mr. Ledbetter's manner of operation, and especially his editing of the news and his management of the call-in program. Second, the call-in program which excited so much opposition has been eliminated, and the station has assured the FCC that it will not resume this particular program if its license should be renewed. Third, the station is now providing time on an even-handed basis to all shades of opinion. In a recent election for the school board, equal time was afforded to both conservative and moderate candidates for the first time. The moderate candidate was elected. The citizen group attributes his election to his exposure on the station.

Paradise Citizens for Civic Responsibility are pleased with the reforms that have been instituted by KEWQ. They are disposed to be generous in their treatment of the new management, and to permit the station, if it wishes to do so, to make a record that will justify eventual renewal of it license.

Puyallup-Tacoma, Washington. Puyallup, Washington, is a suburb of Tacoma. It has one radio station, KAYE. KAYE largely ignores Puyallup, the community to which it is licensed, and instead devotes itself almost exclusively to promoting right-wing politics in Tacoma.

Moderate or liberal members of the community have been subjected to personal attacks. They are rarely, if ever, afforded the opportunity to present views contrary to those of the station management. The citizen group reports that on the few occasions when community leaders have been on the air to respond to attacks they have been subjected to additional abuses through the station.

Currently, Tacoma has a council-manager form of government. The present mayor of Tacoma and a minority in the city council have sought to discredit the council majority, the city manager, and the council-manager form of government. KAYE has been an open ally of the mayor in this struggle. The station gives him and his friends continuous access to the air while shutting his opponents out. The objection to this policy is not against letting conservatives air their views on KAYE, but over the station's refusal of the opposing views which, in this case, represent majority opinion.

While the alleged political bias was the immediate concern of the community over the operation of KAYE, the citizen group documented a number of other violations of the Communications Act. The citizen group organized itself as "Puget Sound Committee for Good Broadcasting." After extensive observation of KAYE, the committee called for reform of the station's practices and was rebuffed by the station management. Under the guidance of legal counsel furnished by the Office of Communication, the committee then prepared and filed a petition with the Federal Communications Commission asking for denial of renewal of license. It was signed by 65 community representatives from a cross-section of the major civic and religious organizations in Puyallup and Tacoma.

The principal complaint cited in the petition is that broadcast time on the station is monopolized by James Nichols, the owner-manager, to present his views. The petition also charges that the station has attacked "the character and integrity of the executive and administrative officers" of Tacoma and of other officials without advising them of such attacks, sending copies, or offering time for reply. Call-in programs are so manipulated that views opposed to those of the station owner are barred or the station "drowns out critical remarks by playing music," according to the petition.

The charge is made that KAYE has made false claims about consulting individuals and organizations in the community to ascertain community tastes, needs, and desires, consultation required by the FCC. Among persons who, in attachments to the petition, have expressly denied that such consultations were held are the Honorable Daniel J. Evans, Governor of Washington, two state legislators, and two county commissioners. The station is also alleged to have disparaged leading civic organizations, referring, for example, to the League of Women Voters as a "league of women vultures."

Pending completion of investigation of the charges in the petition, the Federal Communications Commission has withheld renewal of the KAYE license.

Other Communities

The most dramatic response to approaches by citizen groups to stations against which they had complaints occurred in Boise, Idaho, and Concord, California. In Boise, a call-in program, "Coffee Time," on station KTAN was being used to air conservative views to the exclusion of others. The host permitted personal attacks to be made on prominent citizens without affording time for reply. A citizen group of 20 people representing important civic organizations began to observe the station. Their activity led the station management to change the attitude of the moderator of the program, and to invite persons of varying views to appear on the air. For example, persons opposed to the war in Vietnam were invited for the first time to express their views freely.

In Concord, a call-in program on station KWUN was also used to attack civic leaders, especially ministers who were related to the organizing efforts of grape pickers. Numerous attacks came from anonymous callers who made charges against individuals by name. Station KWUN did not permit replies to such attacks, even when they were patently untrue, as in the case of a statement made over the air that the director of the public library did not pay her income tax. The station also permitted harassment of public institutions through the call-in program. For example, callers claimed that the high school psychologist was administering tests tending to break down parent-child relationships. The school was inundated by calls of protest from parents.

A staff representative helped a citizen group of about 50 persons to organize. After minimum observation of KWUN, the group met with the station owner. When he saw the composition of the group and the information it had at its disposal, he readily agreed to stop the practice of letting anonymous callers lable people in the community as Communists or to make other false characterizations. He installed a seven-second delay button to keep such statements off the air and forbade the mention of names of any persons except public officials. He agreed to abide strictly by the terms of the Fairness Doctrine.

In Montana, citizen groups organized in Billings, Glendive, Sidney, and Bellegrade for general observation of extremist broadcasting and particular

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attention to three stations - one each in Billings, Bellegrade and Glendive - commonly owned under the title of the Enterprise Network. Ministers, labor leaders, the League of Women Voters, and individual public-spirited citizens were included in the committees. The citizen groups observed the stations and recorded a sampling of programs. Representatives of the groups then talked with station management explaining the practices they objected to and reforms they would like to see made. While relations with the managements were cordial, little effort was made by the stations to correct the abuses to which the citizen groups objected. The citizen groups did not pursue their objections to the extent of becoming parties to petitions to be filed with the Federal Communications Commission against the stations.

In Phoenix and Tempe, Arizona, several women's organizations banded together to study three radio stations. At the end of the period of observation, they concluded that a close, continuous look at the stations in question was warranted but that they had neither sufficient time nor enough members to study and analyze the programming.

Similarly, groups were formed in Chicago, Reno, Nevada, and Salt Lake City, Utah, but did not follow through with the process of observing. However, in Salt Lake City, Miss Ethel C. Hale and W. Paul Wharton made intensive studies of the programming and the ownership of KSL, which is licensed to the Bonneville International Corporation, an agency of the Mormon Church. They then filed a petition to deny renewal of the station license. Their plea was rejected by the Federal Communications Commission, but the Circuit Court of Appeals in the District of Columbia has ordered the Commission to grant their request for a hearing.

A citizen group in Raleigh, North Carolina, has conducted a preliminary study of a television station there which has been accused both of carrying an inordinate amount of extremist propaganda and of discriminating against the black population of the area. The data gathered is now in process of being analyzed by the committee. Meantime, a second, more detailed study is being organized with advice from the Office of Communication, especially to study service to blacks.

Legal Action in Defense of the Fairness Doctrine

The Communications Act requires all stations to broadcast "in the public interest, convenience, or necessity." The Federal Communications Commission has interpreted this provision of the Act as requiring fairness in the handling of controversial issues of public importance. To achieve such fairness, the FCC has promulgated a Fairness Doctrine, which is the keystone of ethical broadcasting service. A broadcaster is not permitted to use his facilities solely for the presentation of his own point of view or the views of those who purchase the time he offers for sale. He is obliged to provide coverage of controversial issues and has the responsibility to see that listeners hear all significant viewpoints on the issues.

The FCC has stipulated that when, in the process of discussion of a controversial issue, the honesty, character, or integrity of a person or group is attacked on the air, the broadcaster must notify those attacked and provide them adequate free time for reply. In a political campaign all candidates must be granted the opportunity to be heard if any one candidate buys or is given time, or if material is presented about a candidate.

These specifications came under sharp attack during 1968 when the networks and the Radio-Television News Directors Association brought suit against the FCC in the Seventh Circuit Court of Appeals in Chicago on ground that the requirements were excessively onerous and that they abridged the broadcasters' right of free speech as guaranteed by the First Amendment. The Office of Communication, The United Church Board for Homeland Ministries, United Presbyterian, United Methodist, Roman Catholic and Jewish national bodies joined the FCC in opposition. They recognized in this move an effort to free broadcasting of controls essential to the maintenance of the public's right to access to broadcasting facilities, and hence, of free speech. The church bodies held in an *amicus curiae* brief that the First Amendment right of the public to express itself over the publicly owned broadcasting frequencies takes precedence over the interests of the possessor of a scarce and highly lucrative broadcasting franchise. The Seventh Circuit Court, however, decided for the broadcasters.

Earlier in the year the Circuit Court of Appeals in the District of Columbia had ruled strongly in support of the Fairness Doctrine by upholding an order of the FCC requiring station WGCB, Red Lion, Pa., to grant time for reply to Fred Cook who was attacked on the air by Billy James Hargis and accused of being a Communist. Taking note of the similarity between the two cases, the Supreme Court, even before the Seventh Circuit Court had reached a decision, announced its intention to hear the two cases together for review. Accordingly, the Office of Communication prepared an *amicus* brief covering both cases. It was filed in the Supreme Court under the auspices of the organizations that had been represented in the Circuit Court plus the addition of the National Board of the Young Women's Christian Association of the U.S.A. and the National Citizens Committee for Broadcasting.

In opening his argument before the Supreme Court in the Radio-Television News Directors Association case, the Solicitor General, the Honorable Erwin N. Griswold, arguing for the Government against the networks, told the Court: "The United Church of Christ has filed a brief *amicus curiae* which is a very excellent brief, if the court should find our brief too long I would hope they would read that because it is a very fine presentation of our position."

On June 9, 1969 the Supreme Court unanimously upheld the constitutionality of the Fairness Doctrine. Justice Byron R. White in the decision declared that "the fairness rules enhance rather than abridge the freedoms of speech and press protected by the First Amendment...It is the right of the viewers and listeners not the right of the broadcasters which is paramount." The Court stressed the duty of broadcast licensees to serve the public, concluding its decision in these words:

> In view of the prevalence of scarcity of broadcast frequencies, the Government's role in allocating those frequencies, and the legitimate claims of those unable without governmental assistance to gain access to those frequencies for expression of their views, we hold the regulations and ruling at issue here are both authorized by statute and constitutional. The judgment of the Court of Appeals in Red Lion is affirmed and that in RTNDA reversed and the causes remanded for proceedings consistent with the opinion.

OBSERVATIONS AND CONCLUSIONS

This project has documented by field observation the fact that right-wing, extremist propaganda is widely disseminated by means of radio and television, and that stations which carry a large amount of such propaganda have a tendency to present only the one point of view, thus denying to the public the

full, open, and vigorous presentation of widely differing ideas and opinions that is essential to decision making in a democratic society.

The project also discovered a fact that was not heretofore generally known, i.e., that right-wing groups use call-in programs on local stations as private communication systems. They not only monopolize the time on the air by jamming the switchboard with calls (or in some cases having immediate access to the air through unlisted numbers), they have a well organized telephone network of people who listen to call-in programs for instructions on when to call out right-wing adherents to attack some institution or promote some cause. For example, someone may call in and say merely, "There's a special meeting of the school board tonight at the headquarters to talk about textbooks. Get everybody out to stop them from using textbooks with Communist propaganda." The telephone network immediately goes into action and the board of education can expect to face a largely hostile audience when it assembles for its meeting.

The use of the facilities of a radio or television station for such private communication is a violation of FCC regulations. Any station, large or small, wherever located, is forbidden to act as a common carrier. Any use of the station for common carrier purposes (i.e., any private conversations with listeners carried on through the station) is cause for revocation of a license. The stations know this, as indicated by the alacrity with which they have placed controls on call-in programs when violations of the private communication regulations have been called to their attention. The elimination of private communication from broadcasting is itself a sufficient justification for this project.

The studies undertaken by the project showed that right-wing groups attempt to control opinion on stations in all sizes and types of communities. (Observation is now under way of station KFAX San Francisco, and conversations have been conducted with citizen groups in Los Angeles.) However, it is apparent that small communities with single radio stations and no newspaper are especially vulnerable to the monopoly of opinion by right-wing groups. The more than 7,000 television and radio stations are widely distributed and any listener can pick up only a tiny fraction of their signals. He probably has no more access to a variety of stations than he has to printed publications. While a few of the major urban areas have a relatively large number of stations,* there are more than 2,000 communities that must rely upon a single station for service. Since many of these settlements are isolated, they are dependent upon the judgment of one commercial broadcaster as to how much news and information residents shall receive vis-a-vis his political orientation and the entertainment and commercials that are his stock in trade.

This project has demonstrated that communities can be organized to protect their rights and interests in what they receive over the air. Determined citizen groups can bring about change in broadcasting procedures. They can do this within the confines and resources of the community itself, and need not depend upon outside agencies such as the Federal Communications Commission to carry the entire burden. Consultation between the community and the broadcasting station constitutes a fundamental principle of the American system of broadcasting. An important achievement of this project has been to prove that this system of consultation can function effectively. A number of communities found immediate solutions to the difficulties they were experiencing with their broadcasting stations when they initiated the practice of consulation, even though the stations had neglected this important responsibility that rests upon them.

**The presence of other stations in a community does not absolve any one of them from the obligation to have balanced programming.*

However, the project has also demonstrated that local citizens do not possess the necessary information or understanding of broadcasting procedures to mount a campaign for reform in broadcasting practices without some advice from persons who understand both the requirements stations must fulfill under the Communications Act and the policies and methods of operation of the Federal Communications Commission. The primary obligation for counselling should rest upon the FCC. At present the Commission gives no aid to private citizens and organizations that are interested in improving program service in their communities. In fact, it does everything that it can to impede the efforts of such organizations. The Commission could, if it wished, reverse this practice; but is unlikely to do so unless Congress passes legislation directing such action.

The FCC also should take a much sharper and longer look at applications for renewal of licenses than it now does. One of its most stringent rules is the requirement that stations consult with community organizations and with individual citizens about the kind of broadcast service needed. This project has shown that stations flout this rule with impunity. Furthermore, they are so confident that the FCC will not check up on them that they falsify reports to the Commission, as KAYE did when it claimed to have consulted the Governor of the State of Washington, state legislators, and other public officials whom it had not consulted. The FCC made no attempt to check these claims by the station; it was the citizen group under this project that discovered they were not true.

The Commission should also require stations to report on the nature of the consultations it holds. Stations frequently report, truly, that they consulted with a particular community group. They do not, however, state what the opinion of the group was concerning their programming. The FCC should require stations to report when citizen groups that they consult say negative things about the programs.

The project has had a significant influence in upholding two of the fundamental principles of the First Amendment guarantee of free speech as it applies to broadcasting: (1) the need of the public to be exposed to diverse opinions and beliefs, and (2) the need for access by the public - both community institutions and individual citizens - to radio and television for the expression of their opinions and beliefs. On the public level, the First Amendment guarantee of free speech protects the fundamental need of a democratic society for the presentation of differing ideas which are allowed to compete in free and open public discussion, thus allowing the people to arrive at the "truth" through the logic of rational discourse. On the individual level, the guarantee protects the personal freedom of the individual to express himself without restraint, and gives him the opportunity to participate in the process by which decisions are made which affect his life.

FCC Commissioner Nicholas Johnson has aptly pointed out that "one basic assumption underlying the First Amendment's protection of speech is that 'the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public....' (*Associated Press vs. United States*, 326 U.S. 1, 20, 1944). Free and open communication between individuals of differing and diverse persuasions is essential to the operation of a democratic society. The opinions and views of others may startle, shock and even offend. The drafters of the Constitution believed that no man has a monopoly on truth, and the successful operation of a democracy depends upon the ability of the participants to contribute their ideas to the marketplace of ideas."

The experience of the project indicates that the volume of extremist broadcasting is certainly holding its own and is probably increasing. The quest

for law and order, opposition to the youth unrest, and the pressures from black militants have provided new and highly volatile issues for the extremists to exploit. Calls upon the Office of Communication for help in combatting extremist broadcasting are frequent and of pressing importance to the communities involved.

Unless people understand their rights and responsibilities in radio and television and how to protect them, they will continue to be the victims of whoever happens to control the broadcast frequencies. Discovery of effective means by which local citizens can be organized to study and understand the American broadcasting system, to examine the service being rendered by their local stations, and to act where deficiencies in programming services are found is the most valuable outgrowth of the project. Because the procedures that have been developed are based upon community action which itself is based upon a thorough understanding of broadcasting and its potential, they have provided more than momentary solutions to individual situations. The most heartening achievements have been made in the communities where the project has helped to develop citizen groups that have an ongoing influence upon the broadcasting service. In many communities responsible citizens have learned that broadcasters will not take the initiative to provoke controversial programming, if only because the sponsors hesitate to associate with opinions that may be disagreeable to potential purchasers. It has become clear to large numbers of citizens who have participated in this project that they, and not the broadcasting industry, must wage any fight that is to be made for free speech on radio and television.

It is unfortunate but true that the technicalities of broadcast regulations make it virtually certain that spontaneous action by local citizens will be ineffective unless there is a counselling service available of the type and quality this project has rendered. The broadcasting industry is well aware of the improvements this project has helped bring about in the direction of providing radio and television programming that is truly responsive to the tastes, needs and desires of the community as a whole. If the industry knows that necessary counselling will continue to be available to communities that genuinely need it, the progress that has begun will continue and accelerate. If the aid is withdrawn, the gains of the last two years will most certainly be lost, (1) because, in any event, the extremist broadcasters will continue their activities, and (2) the broadcasting industry, knowing there is no place for communities to turn for advice, will quickly fall back into indifference about the rights of the public to hear all sides of controversial issues and to express individual and corporate views over the air.